



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,146	10/29/2003	Michael B. Galles	080068.0163	5506

5073

7590

01/29/2010

BAKER BOTTS L.L.P.

2001 ROSS AVENUE

SUITE 600

DALLAS, TX 75201-2980

EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 01/29/2010

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Notification of Non-Compliant Appeal Brief (37 CFR 41.37)</b>	<b>Application No.</b> 10/696,146	<b>Applicant(s)</b> GALLES ET AL.	
	<b>Examiner</b> William M. Treat	<b>Art Unit</b> 2181	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 02 November 2009 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.  
**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

/William M. Treat/  
Primary Examiner, Art Unit 2181

Continuation of 10. Other (including any explanation in support of the above items): Under the heading, "Status of Amendments", applicants should only list amendments filed subsequent to the final rejection from which applicants are appealing. In this case there are no amendments filed after the final rejection. Under the heading, "Summary of Claimed Subject Matter", it would be helpful if applicants noted the filing date of any amended subject matter they wish to reference so that the Board members may be better able to locate it. Under the heading, "Argument", applicants need a heading just for the ground of rejection and a sub-heading or sub-headings under the heading for the claims being argued as a group or separately. At times it appears that applicants are attempting to argue independent claims separately implying the necessity of multiple sub-headings for, at least, the independent claims and their dependents. Another point that should be made clear in applicants' arguments section is that when applicants are relying on an amendment to their original disclosure to support their argument and/or claim language, the fact that the amendment supports their argument and/or claim language and not the original disclosure should be made clear as well as the date the amendment was filed.